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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

EXAMINER
DOAN, DUYEN MY

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/777,284
Filing Date: February 11, 2004
Appellant(s): ZILLIACUS ET AL.

_____
Evan Clark
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/20/2010 appealing from the Office action

mailed 8/19/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application: Claims 23-49 and 53-103.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

5,940,504	Griswold	6-1992
2002/0002042	Ishida	12-1998
5,715,403	Stefik	11-1994
6,366,791	Lin	6-1999
6,360,255	McCormack	6-1998
6,381,742	Forbes	6-1998
6,546,002	Kim	7-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 23-26,28,38-40 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Griswold (us pat 5,940,504) (hereinafter Gris) and Ishida (us

2002/0002042).

As regarding claim 23 Gris discloses connecting a first mobile terminal to an

application database through a cellular communication network, the application

database containing at least one application having a variable selectable lifetime (see

Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10,

lines 1-13); receiving choice of application (see Gris col.4, lines 14-18, col.6, lines 62-

67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13);

providing the application database with information identifying a user of the first

mobile terminal (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9,

lines 57-67; col.10, lines 1-13);

downloading the chosen application from said application database to the first

mobile terminal (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9,

lines 57-67; col.10, lines 1-13);

storing indicia of the selected lifetime for the chosen application and of the

information identifying the user, wherein the stored indicia corresponds to the selected

lifetime during which the chosen application is further executable at mobile terminals

accessible by the user (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26;

col.9, lines 57-67; col.10, lines 1-13).

Gris is silent in regard to the user specified the life-time.

Ishida teaches user specified the life-time (see Ishida par 0005).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Ishida to Gris because they're analogous art. A person would have been motivated to modify Gris with Ishida for the purpose of providing the end user with flexibility of specified their own use term for the application.

As regarding claim 24, Gris-Ishida discloses the step of downloading the chosen application is performed over a wireless connection(see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 25, Gris-Ishida discloses the step of downloading over a wireless connection is performed through the cellular communication network(see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 26, Gris-Ishida discloses the step of downloading over a wireless connection is achieved by way of a short-range connection (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13);

As regarding claim 28, Gris-Ishida discloses the indicia is stored in an application-license database in connection with the application database(see Gris col.4,

lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 38, Gris-Ishida discloses wherein the lifetime is a period of time measured from a predetermined starting time(see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 39, Gris-Ishida discloses the predetermined starting time is the time of downloading the chosen application (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13);

As regarding claim 40, Gris-Ishida discloses the lifetime is a predetermined number of downloads(see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold (us pat 5,940,504) (hereinafter Gris) and Ishida (us 2002/0002042) as applied to claim 24 above and further in view of McCormack et al (us pat 6,360,255) (hereinafter Mccormack).

As regarding claim 27, Gris-Ishida discloses the invention as claim in claim 24 above however Gris-Ishida is silent in regard to infrared.

Mccormack teaches infrared (see Mccormack, col.15, lines 55-56).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Mccormack to Gris-Ishida because they're analogous art. A person would have been motivated to modify Gris-Ishida for the purpose of providing the end user with wide range of communication environment.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold (us pat 5,940,504) (hereinafter Gris) and Ishida (us 2002/0002042) as applied to claim 23 above and further in view of what was well known in the art.

As regarding claim 29, Gris-Ishida discloses the invention as claim in claim 23 above however Gris-Ishida is silent in regard to SIM.

Official Notice is taken (see MPEP 2144.03) SIM is well known at the time the invention was made.

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate SIM to Gris-Ishida because they're well known. A person would have been motivated to modify Gris-Ishida for the purpose of identifying the end user device.

Claims 30-36,41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold (us pat 5,940,504) (hereinafter Gris) and Ishida (us 2002/0002042) as applied to claim 23 above and further in view of Kim (us pat 6,546,002).

As regarding claim 30, Gris-Ishida discloses the invention as claim in claim 23 above however Gris-Ishida is silent in regard to receiving in the application database a request from the user for a subsequent downloading of a previously-downloaded application; determining whether lifetime remains by reference to the stored indicia of the selected lifetime for a previously-downloaded application for the user; and downloading the application a subsequent time, if it is determined that at least a portion of the selected lifetime remains for the requested application.

Kim teaches receiving in the application database a request from the user for a subsequent downloading of a previously-downloaded application; determining whether lifetime remains by reference to the stored indicia of the selected lifetime for a previously-downloaded application for the user; and downloading the application a subsequent time, if it is determined that at least a portion of the selected lifetime remains for the requested application (see Kim col.3, lines 23-37, col.4, lines 1-10, col.6, lines 1-16, col.7, lines 12-30, col.9, lines 3-22; col.12, lines 8-22, col.13, lines 35-53).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Kim to Gris-Ishida because they're analogous art. A person would have been motivated to modify Gris-Ishida for the purpose of allow the user with flexible license uses.

As regarding claim 31, Gris-Ishida-Kim discloses the request is received from a second mobile terminal(see Kim col.3, lines 23-37, col.4, lines 1-10, col.6, lines 1-16,

col.7, lines 12-30, col.9, lines 3-22; col.12, lines 8-22, col.13, lines 35-53).

As regarding claim 32, Gris-Ishida-Kim discloses the subsequent downloading

comprises downloading the application to a second mobile terminal (see Kim col.3, lines

23-37, col.4, lines 1-10, col.6, lines 1-16, col.7, lines 12-30, col.9, lines 3-22; col.12,

lines 8-22, col.13, lines 35-53).

As regarding claim 33, Gris-Ishida-Kim discloses refusing the request for

subsequent downloading if the determination indicates that lifetime has expired in the

stored indicia for said user (see Kim col.3, lines 23-37, col.4, lines 1-10, col.6, lines 1-

16, col.7, lines 12-30, col.9, lines 3-22; col.12, lines 8-22, col.13, lines 35-53).

As regarding claim 34, Gris-Ishida-Kim discloses downloading is performed over

a wireless connection (see Kim col.3, lines 23-37, col.4, lines 1-10, col.6, lines 1-16,

col.7, lines 12-30, col.9, lines 3-22; col.12, lines 8-22, col.13, lines 35-53).

As regarding claim 35, Gris-Ishida-Kim discloses downloading over a wireless

connection is performed through the cellular communication network (see Kim col.3,

lines 23-37, col.4, lines 1-10, col.6, lines 1-16, col.7, lines 12-30, col.9, lines 3-22;

col.12, lines 8-22, col.13, lines 35-53).

As regarding claim 36, Gris-Ishida-Kim discloses the downloading over a

wireless connection is achieved by way of a short-range connection (see Kim col.3, lines 23-37, col.4, lines 1-10, col.6, lines 1-16, col.7, lines 12-30, col.9, lines 3-22; col.12, lines 8-22, col.13, lines 35-53).

As regarding claim 41, the limitations of claims 41 are similar to the limitations of 23 and 30-36, therefore rejected for the same rationale.

As regarding claim 42, Gris-Ishida-Kim discloses said downloadable application is preprogrammed with the selected lifetime (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13) , wherein the downloadable application is configured to delete itself from the at least one mobile terminal when the selected lifetime expires (see Ishida par 0058).

As regarding claim 43, Gris-Ishida-Kim discloses the selected lifetime expires as a function of a selected number of transactions (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 44, Gris-Ishida-Kim discloses the lifetime expires as a function of a selected time (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gris-Ishida-Kim as applied to claim 36 above and further in view of McCormack et al (us pat 6,360,255) (hereinafter Mccormack).

As regarding claim 37, Gris-Ishida-Kim discloses the invention as claim in claim 36 above however Gris-Ishida-Kim is silent in regard to infrared.

Mccormack teaches infrared (see Mccormack, col.15, lines 55-56).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Mccormack to Gris-Ishida-Kim because they're analogous art. A person would have been motivated to modify Gris-Ishida-Kim for the purpose of providing the end user with wide range of communication environment.

Claims 45-46,48-49,53-55,57-59,65-69,73,86-88,90-92,98-100,102-103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold (us pat 5,940,504) (hereinafter Gris) and Ishida (us 2002/0002042) and further in view of Stefik (us pat 5,715,403).

As regarding claim 45, Gris discloses a central processing unit (CPU) (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13);

a memory unit coupled with the CPU and configured to store at least one application (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13);

an application requestor coupled with the CPU and configured to generate requests to download a variable-lifetime application from an application database; a lifetime determiner coupled with the CPU and configured to determine a remaining portion of the lifetime associated with a downloaded application (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13); and wherein the apparatus is operable to receive and store downloaded applications and to permit the downloaded application to be executed at the mobile terminal as long as a portion of its associated lifetime remains (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

Gris is silent in regard to the user specified the life-time.

Ishida teaches user specified the life-time (see Ishida par 0005).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Ishida to Gris because they're analogous art. A person would have been motivated to modify Gris with Ishida for the purpose of providing the end user with flexibility of specified their own use term for the application.

The combination of Gris-Ishida does not disclose disable an application.

Stefik teaches disable an application (see Stefik col.2, lines 1-6, col.3, lines 8-19, col.4, lines 25-39).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Stefik to Gris-Ishida because they're analogous art. A person would have been motivated to modify Gris-Ishida for the purpose of controlling the distribution of digital work.

As regarding claim 46, Gris-Ishida-Stefik discloses application disabler is configured to disable an application when the associated lifetime has expired (see Stefik col.2, lines 1-6, col.3, lines 8-19, col.4, lines 25-39).

As regarding claim 48, Gris-Ishida-Stefik discloses application requester is operable to request a previously-downloaded application for which at least a portion of the associated lifetime remains (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13)

As regarding claim 49, Gris-Ishida-Stefik discloses the memory unit also stores lifetime indicia associated with downloaded applications (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 53, the limitations of claim 53 are similar to limitations of claim 45 above, therefore rejected for the same rationale.

As regarding claim 54, Gris-Ishida-Stefik discloses the wireless network is a cellular communication network (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 55, Gris-Ishida-Stefik discloses the wireless network comprises short-range wireless communication(see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 57, Gris-Ishida-Stefik discloses receiving the user-selected time period for the first application from the mobile terminal (see Ishida par 0005).

As regarding claim 58, Gris-Ishida-Stefik discloses receiving the user-selected number of times the first application may be used from the mobile terminal (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 59, Gris-Ishida-Stefik discloses the first application is configured to become unavailable by becoming non-functional (see Stefik col.2, lines 1-6, col.3, lines 8-19, col.4, lines 25-39).

As regarding claim 65, Gris-Ishida-Stefik discloses paying for the first application, wherein the amount of said payment is based on either the user-selectable time period

or the user-selectable number of times (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 66, Gris-Ishida-Stefik discloses making an initial payment for the first application; subsequently receiving another selection of the first application; again receiving the first application if there is time remaining in the user-selected time period; and making additional payment for said again receiving the first application, wherein the amount of said additional payment is reduced from the amount of the initial payment (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 67, Gris-Ishida-Stefik discloses making an initial payment for the first application; subsequently receiving another selection of the first application; again receiving the first application if the first application has been used less than the user-selected number of times; and making additional payment for said again receiving the first application, wherein the amount of said additional payment is reduced from the amount of the initial payment (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 68, Gris-Ishida-Stefik discloses determining, at each attempt to use the first application, whether time remains in the user- selected time period, and deleting the first application if time does not remain in the user-selected time period (see

Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines 3-26; col.9, lines 57-67; col.10,

lines 1-13).

As regarding claim 69, Gris-Ishida-Stefik discloses determining, at each attempt

to use the first application, whether the first application has been used less than the

user-selected number of times, and deleting the first application if the first application

has been used the user-selected number of time (see Gris col.4, lines 14-18, col.6, lines

62-67, col.7, lines 3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claim 73, Gris-Ishida-Stefik discloses the first application contains

executable digital information (see Gris col.4, lines 14-18, col.6, lines 62-67, col.7, lines

3-26; col.9, lines 57-67; col.10, lines 1-13).

As regarding claims 86-88,90-92,98-100,102-103, the limitations of claims 86-

88,90-92,98-100,102-103 are similar to limitations of rejected claims 53-55,57-59,65-

69,73, therefore rejected for the same rationale.

Claims 47,60-62,71,93-95 are rejected under 35 U.S.C. 103(a) as being Gris-

Ishida-Stefik as applied to claims 45,53,86 above and further in view of Forbes et

al (us 6,381,742) (Hereinafter Forbes).

As regarding claims 47,60-62,93-95, Gris-Ishida-Stefik discloses claims 45,53,86 above but does not disclose configured to delete an application; deleting at least a portion of itself; delete only executable code.

Forbes teaches the configured to delete an application; deleting at least a portion of itself; delete only executable code (see Forbes col.8,lines 23-17).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Forbes to Gris-Ishida-Stefik because they're analogous art. A person would have been motivated to modify Gris-Ishida-Stefik for the purpose of controlling the distribution of digital work.

Claims 56,89 are rejected under 35 U.S.C. 103(a) as being Gris-Ishida-Stefik as applied to claims 53,86 above and further in view of McCormack et al (us pat 6,360,255) (hereinafter Mccormack).

As regarding claims 56,89, Gris-Ishida-Stefik discloses the invention as claim in claims 53,86 above however Gris-Ishida-Stefik is silent in regard to infrared.

Mccormack teaches infrared (see Mccormack, col.15, lines 55-56).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Mccormack to Gris-Ishida-Stefik because they're analogous art. A person would have been motivated to modify Gris-Ishida-Stefik for the purpose of providing the end user with wide range of communication environment.

Claims 63-64,70,72,96-97 are rejected under 35 U.S.C. 103(a) as being Gris-Ishida-Stefik as applied to claims 53,86 above and further in view of Kim (us pat 6,546,002).

As regarding claim 63, Gris-Ishida discloses the invention as claim in claim 53 above however Gris-Ishida-Stefik is silent in regard to subsequently receiving a re-selected choice of the first application; and again receiving the first application if time remains in the predetermined time period.

Kim teaches subsequently receiving a re-selected choice of the first application; and again receiving the first application if time remains in the predetermined time period (see Kim col.3, lines 23-37, col.4, lines 1-10, col.6, lines 1-16, col.7, lines 12-30, col.9, lines 3-22; col.12, lines 8-22, col.13, lines 35-53).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Kim to Gris-Ishida-Stefik because they're analogous art. A person would have been motivated to modify Gris-Ishida for the purpose of allow the user with flexible license uses.

As regarding claim 64, Gris-Ishida-Stefik-Kim discloses subsequently receiving a re-selected choice of the first application; and again receiving the first application if the first application has been used less than the predetermined number of times (see Kim col.3, lines 23-37, col.4, lines 1-10, col.6, lines 1-16, col.7, lines 12-30, col.9, lines 3-22; col.12, lines 8-22, col.13, lines 35-53).

As regarding claim 70, Gris-Ishida-Stefik-Kim discloses links to website (see Kim col.3, lines 23-37, col.4, lines 1-10, col.6, lines 1-16, col.7, lines 12-30, col.9, lines 3-22; col.12, lines 8-22, col.13, lines 35-53).

As regarding claim 72, Gris-Ishida-Stefik-Kim discloses games (see Kim col.3, lines 23-37, col.4, lines 1-10, col.6, lines 1-16, col.7, lines 12-30, col.9, lines 3-22; col.12, lines 8-22, col.13, lines 35-53).

As regarding claims 96-97, the limitations are rejected similar to 63-64,70,72.

Claims 74-76,78-79,82,85,101 are rejected under 35 U.S.C. 103(a) as being Gris-Ishida-Stefik as and further in view of Lin et al (us 6366791).

As regarding claim 74, Gris-Ishida-Stefik discloses claim 74, similar to claim 53 above, Gris-Ishida-Stefik does not disclose ringtone.

Lin teaches ringtone (see Lin col.2,lines 32-43).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Lin to Gris-Ishida-Stefik because they're analogous art. A person would have been motivated to modify Gris-Ishida-Stefik for the purpose of allow the user with diversity of data.

As regarding claim 75, Gris-Ishida-Stefik-Lin discloses wherein the wireless network is a cellular network (see Gris citation).

As regarding claim 76, Gris-Ishida-Stefik-Lin discloses wireless network comprises short-range wireless communication (see Gris citation).

As regarding claim 78, Gris-Ishida-Stefik-Lin discloses receiving at the mobile terminal the user-selectable time period for the first ringing tone (Gris citation).

As regarding claim 79, Gris-Ishida-Stefik-Lin discloses receiving at the mobile terminal the user- selectable number of times the first ringing tone may be used (Gris citation).

As regarding claims 82,85,101, limitations are similar to above rejected claims.

Claim 77 is rejected under 35 U.S.C. 103(a) as being Gris-Ishida-Stefik-Lin as applied to claim 74 above and further in view of McCormack et al (us pat 6,360,255) (hereinafter Mccormack).

As regarding claims 56,89, Gris-Ishida-Stefik-Lin discloses the invention as claim in claims 53,86 above however Gris-Ishida-Stefik-Lin is silent in regard to infrared.

Mccormack teaches infrared (see Mccormack, col.15, lines 55-56).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Mccormack to Gris-Ishida-Stefik –Lin because they're analogous art. A person would have been motivated to modify Gris-

Ishida-Stefik-Lin for the purpose of providing the end user with wide range of

communication environment.

Claims 80-81,83-84 are rejected under 35 U.S.C. 103(a) as being Gris-Ishida-

Stefik-Lin as applied to claim 74 above and further in view of Kim (us pat

6,546,002).

As regarding claims 80-84, Gris-Ishida-Stefik-Lin discloses the invention as claim

in claim 53 above however Gris-Ishida-Stefik-Lin is silent in regard to subsequently

receiving a re-selection of the first ringing tone; and again receiving the first ringing tone

if there is time remaining in the user-selected time period; subsequently receiving a re-

selection of the first ringing tone; and again receiving the first ringing tone if the first

ringing tone has been used less than the user-selected number of times making an

initial payment for the first ringing tone; subsequently receiving a re-selection of the first

ringing tone; again receiving the first ringing if there is time remaining in the user-

selected time period; and making additional payment for said again receiving the first

ringing tone, wherein the amount of said additional payment is reduced from the amount

of the first payment

Kim teaches subsequently receiving a re-selected choice of the first application;

and again receiving the first application if time remains in the predetermined time period

(see Kim col.3, lines 23-37, col.4, lines 1-10, col.6, lines 1-16, col.7, lines 12-30, col.9,

lines 3-22; col.12, lines 8-22, col.13, lines 35-53).

It would have been obvious to one with an ordinary skill in the art at the time the invention was made to incorporate the teaching of Kim to Gris-Ishida-Stefik-Lin because they're analogous art. A person would have been motivated to modify Gris-Ishida for the purpose of allow the user with flexible license uses.

(10) Response to Argument

Appellant argues **A)**there are no reason to combine Griswold and Ishida because they are not analogous art. **B)** McCormack does not teach short-range connection and . **C)** Identifying the user based on Subscriber Identify Module (SIM) is not well known in the art. **D)** prior art Kim does not teach downloading the application a subsequent time if at least a portion of selected lifetime remain <u>and</u> the prior art does not teach claim 42, which the downloadable application is configured to delete itself when the selected lifetime expires. **E)** McCormack does not teach short-range connection. **F)** 1)Stefik does not mention an application can be disable, 2) Ishida does not teach "user selectable time period", 3) application configured to become unavailable by becoming non-functional, 4) prior art does not teach again receiving the application if the application has been used less than user-selected number of times. **G)** prior art does not teach 1)"delete an application with lifetime remaining in order to free storage space", 2) "delete a portion of itself", 3) "delete only the executable code", 4) "retain customized setting in the mobile terminal", 5) "delete a pre-existing application to create memory space for the first application".

In response to A) Griswold discloses the concept of transmitting and managing license product such as software, music, video, etc in a telecommunication network. Ishida teaches allowing the user to set the valid time period for the data in a telecommunication network. Both of Griswold and Ishida concern with data communication in general in a telecommunication network, therefore they're analogous art. One ordinary skill in the art would come up with the claimed invention using Griswold's concept of transmitting and managing license product and the user setting the valid time period of the data in Ishida for the obvious purpose of allowing the user control over license product that he/she is purchasing.

In response to B) McCormack teaches in col.2, lines 66-67 downloading the software components to the network devices and in col.15, line 55, discloses the infrared data communication network (Examiner Note: it is well known to one with ordinary skill in the art that infrared data communication network is a short-range connection). One ordinary skill in the art with the teachings in col.2 and col.15 above would realize that it is possible to download the software components over an infrared data communication network which is a short range communication in itself.

In response to C) the concept of using the SIM to identify the user is well known the communication network, for instant refer to patent number 5,898,783 (Rohrbach), col.3, lines 66-67. The above citation discloses the concept of using the SIM is used to identify the user to the telecommunication network.

In response to D) Kim teaches the concept of a floating license for the licensed product in which allowing the user to reinstall the software if the license term is still valid (see Kim col.3, lines 23-45). The license term could be the number of times or the time period in which the user allows to use the license product (see Kim col.9, lines 15-17, col.12, lines 7-9). In order for the system in Kim to work the server check and verify the license term to determine if the user is allowed to access the licensed product (see Kim col.12, lines 8-27). With the above teachings, one ordinary skill in the art would realized that in order for the system in Kim to work, it is necessary for the server to check the license term (the number of uses or the time period) before allow the user to reinstall (i.e. access the license product for the subsequent time).

The combination of Griswold-Ishida-Kim teaches, "The application deletes itself when the time expired". Ishida particularly teaches this concept, Ishida teaches the code that designating "erasure" indicating the message data is to be erased is associated with the message data. The message is deleted if the code indicates the "erasure" (see Ishida pare 0029-0030).

In response to E) McCormack teaches in col.2, lines 66-67 downloading the software components to the network devices and in col.15, line 55, discloses the infrared data communication network (Examiner Note: it is well known to one with ordinary skill in the art that infrared data communication network is a short-range connection). One ordinary skill in the art with the teachings in col.2 and col.15 above

would realize that it is possible to download the software components over an infrared

data communication network which is a short range communication in itself.

In response to F-1) Sterik teaches a concept of controlling the distribution of

digital work (e.g. software). In Sterik the software is limited to a number of times/period

of time in which the software will become disabling after the licensed term is expired. **In**

response to F-2) Ishida teaches the user is selecting a time period in which the

message data is accessible (see Ishida par 0005), after this period the message data

will be erased in order to conserve the storage space. Therefore Ishida teaches the

user selectable period. **In response to F-3)** again Sterik teaches a concept of

controlling the distribution of digital work (e.g. software). In Sterik the software is limited

to a number of times/period of time in which the software will become disabling after the

licensed term is expired. When the software becomes disabling, it is not available for

use, the disabled software is no longer functional. **In response to F-4)** Kim teaches

the concept of a floating license for the licensed product in which allowing the user to

reinstall the software if the license term is still valid (see Kim col.3, lines 23-45). The

license term could be the number of times or the time period in which the user allows to

use the license product (see Kim col.9, lines 15-17, col.12, lines 7-9). In order for the

system in Kim to work the server check and verify the license term to determine if the

user is allowed to access the licensed product (see Kim col.12, lines 8-27). With the

above teachings, one ordinary skill in the art would realized that in order for the system

in Kim to work, it is necessary for the server to check the license term (the number of

uses or the time period) before allow the user to reinstall (i.e. access the license product

for the subsequent time).

      In response to G-1) The combination of Griswold-Ishida-Sterik-Forbes teaches

deleting the software if it is no longer needed (see Forbes col.8, lines 7-17). Forbes

does not concern with the lifetime of the application, but simply, if the application is no

longer needed, the application will be deleted for the obvious reason that to conserve

the storage space. **In response to G-2) and G-3)** the combination of Griswold-Ishida-

Sterik-Forbes teaches deleting the software (see Forbes col.8, lines 7-17). The

software itself includes the executable code (see Griswold col.5, lines 34-37). When

the software is deleted, it deleting the portion of itself and since the software includes

the executable code, the executable code will be deleted. **In response to G-4)** The

valid period in which the data is not erased is pre-set by the user, the data will be

erased after the pre-set period (see Ishida par 0005). One ordinary skill in the art would

understand that the user's pre-set period will not be erased (i.e. retain user's setting) but

only the data will be erased. **In response to G-5)** The combination of Griswold-Ishida-

Sterik-Forbes teaches deleting the software if it is no longer needed (examiner note: the

software which no longer needed is the pre-existing application) (see Forbes col.8, lines

7-17). Forbes does not concern with the lifetime of the application, but simply, if the

application is no longer needed, the application will be deleted for the obvious reason

that to conserve the storage space for the new applications/software.

Arguments H-L made in the appeal brief are similar to the arguments A-G above, therefore, the response to arguments H-L will be the same and will not be repeated.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/DUYEN M DOAN/

Primary Examiner, Art Unit 2452

Conferees:

/DOHM CHANKONG/
Primary Examiner, Art Unit 2452

/THU NGUYEN/
Supervisory Patent Examiner, Art Unit 2452